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Kilpatrick Townsend & Stockton LLP / USAA
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

EXAMINER

ALTSCHUL, AMBER L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* JERROMY LAVERNE JOHNSON,
9 DEBORAH MURPHY,
10 MARK ALLEN GARRETT, and
11 BEVERLY LYNN PHILLIPS
12

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14 Appeal 2010-003724
15 Application 10/649,252
16 Technology Center 3600
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19 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and
20 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.
21 FETTING, *Administrative Patent Judge*.

22 DECISION ON APPEAL¹
23

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE²

Jerromy Laverne Johnson, Deborah Murphy, Mark Allen Garrett, and Beverly Lynn Phillips (Appellants) seek review under 35 U.S.C. § 134 (2002) of a final rejection of claims 1-21, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellants invented a system and method for establishing rates for a property insurance policy. Specification ¶¶ 0001.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

1. A method for establishing rates for a property insurance policy, the method comprising:

[1] determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, such that no single risk characteristic is the sole determinant for placement in a tier, the factors including:

a) a protection class; and

b) a previous paid loss history; and

² Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed October 10, 2008) and the Examiner's Answer ("Ans.," mailed May 19, 2009), and Final Rejection ("Final Rej.," mailed February 6, 2008).

1 [2] establishing a rate quote for a property insurance policy
2 of a single insurance company for the applicant based on the
3 tier placement of the applicant, wherein the tier placement
4 results in one of a preferred rate quote, a standard rate quote,
5 and a nonstandard rate quote.

6

7 The Examiner relies upon the following prior art:

Ogawa et al. US 2001/0023404 A1 Sep. 20, 2001

Jinks US 2002/0055862 A1 May 9, 2002

ChoicePoint, www.choicepoint.net, Internet Archive, Jan. 24, 2002

8 Claims 1-6, 14, 16, and 18-19 stand rejected under 35 U.S.C. § 103(a) as
9 unpatentable over Jinks and Ogawa.

10 Claims 7-13, 15, 17, and 20-21 stand rejected under 35 U.S.C. § 103(a)
11 as unpatentable over Jinks, Ogawa, and Choicepoint.

12

13 ISSUES

14 The issue of whether the Examiner erred in rejecting claims 1-6, 14, 16,
15 and 18-19 under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa
16 turns on whether Jinks and Ogawa describe limitation [2] of claim 1, and as
17 recited in independent claims 14 and 18.

18 The issue of whether the Examiner erred in rejecting claims 7-13, 15, 17,
19 and 20-21 under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and
20 Choicepoint turns on whether the Appellants' arguments in support of
21 independent claims 1, 14, and 18 are found to be persuasive.

22

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to the Prior Art

Jinks

01. Jinks is directed to systems and methods for collecting insurance information, providing premium quotations, and issuing insurance policies. Jinks ¶ 0001.

02. Jinks describes a system where an agent inputs risk information and insurance class information in to the system and this information is processed to determine whether a premium may be quoted for the particular risk. Jinks ¶'s 0006 and 0024. If the risk can be evaluated by the system, the system provides an insurance premium quotation for each carrier whose rules are satisfied by the insurance risk. Jinks ¶ 0006.

Ogawa

03. Ogawa is directed to a technique that permits prospective insurance buyers to obtain premium estimates from a premium trial-calculation system, a computer system, and a medium, particularly to an art to be effectively applied to comparative estimate for a plurality of companies. Ogawa ¶ 0002.

04. Ogawa describes that the prior art required a consumer to access the home pages of each underwriter to calculate the

1 premium for an insurance commodity from that underwriter.

2 Ogawa ¶'s 0005-0006.

3 05. Ogawa describes a system where a consumer inputs the
4 necessary data to determine a premium and this data is transmitted
5 to the service underwriter's computer. Ogawa ¶ 0010. The
6 underwriter estimates a premium for insurance commodity based
7 on the data and sends the estimate to the user's computer. Ogawa
8 ¶ 0010. The user can then compare estimated premiums from a
9 plurality of insurance companies based on the input data. Ogawa
10 ¶'s 0010-0011.

11 *Choicepoint*

12 06. Choicepoint is directed to an information system for the
13 insurance industry. Choicepoint 3.

14
15 ANALYSIS

16 *Claims 1-6, 14, 16, and 18-19 rejected under 35 U.S.C. § 103(a) as*
17 *unpatentable over Jinks and Ogawa*

18 The Appellants contend that Jinks and Ogawa fail to describe limitation
19 [2] of claim 1, and as recited in claims 14 and 18. App. Br. 6-7. We agree
20 with the Appellants. Limitation [2] requires establishing a rate quote for a
21 property insurance policy of a single insurance company. Limitation [2]
22 further requires that the rate quote is based on the tier placement of the
23 applicant, where the tier placement is either a preferred rate quote, a
24 standard rate quote, or a non-standard rate quote.

1 Jinks and Ogawa both describe systems for determining insurance
2 premium quotes for an applicant. FF 02 and 05. While both Jinks and
3 Ogawa describe determining rate quotes from a plurality of insurance
4 companies (FF 02 and 05), Ogawa describes that it was known to determine
5 an insurance premium quote for only one company. FF 04.

6 However, neither Jinks nor Ogawa describe that the rate quote is based
7 on a tier placement and the tier placements are one of a preferred rate quote,
8 a standard rate quote, and a non-standard rate quote, as is further required by
9 limitation [2]. The Examiner correctly found that Ogawa describes
10 determining rate quotes for a single insurance company (Ans. 13-14), but
11 failed to provide a specific citation of where Ogawa or Jinks describe a tier
12 placement that is one of a preferred rate quote, a standard rate quote, and a
13 non-standard rate quote. We find no evidence that Ogawa or Jinks describe
14 this feature required by limitation [2].

15
16 *Claims 7-13, 15, 17, and 20-21 rejected under 35 U.S.C. § 103(a) as*
17 *unpatentable over Jinks, Ogawa, and Choicepoint*

18 The Appellants contend that claims 7-13, 15, 17, and 20-21 are
19 allowable for the same reasons submitted in support of claim 1 *supra*. App.
20 Br. 9. We agree with the Appellants. The Appellants' arguments in support
21 of independent claims 1, 14, and 18 were found to be persuasive *supra* and
22 are found to be persuasive here for the same reasons.

CONCLUSIONS OF LAW

The Examiner erred in rejecting claims 1-6, 14, 16, and 18-19 under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa.

The Examiner erred in rejecting claims 7-13, 15, 17, and 20-21 under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 1-6, 14, 16, and 18-19 under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa is not sustained.
- The rejection of claims 7-13, 15, 17, and 20-21 under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint is not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REVERSED

Appeal 2010-003724
Application 10/649,252

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4 mev

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6 Address

7 KILPATRICK TOWNSEND & STOCKTON LLP / USAA

8 TWO EMBARCADERO CENTER, EIGHTH FLOOR

9 SAN FRANCISCO CA 94111-3834